

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

NOV - 7 2011

Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio	)	Application File Nos. 0004030479,
Services	)	0004144435, 0004193028,
	)	0004193328, 0004354053,
Applicant with ENCANA OIL AND GAS (USA),	)	0004309872, 0004310060,
INC.; DUQUESNE LIGHT COMPANY; DCP	)	0004314903, 0004315013,
MIDSTREAM, LP; JACKSON COUNTY	)	0004430505, 0004417199,
RURAL MEMBERSHIP ELECTRIC	)	0004419431, 0004422320,
COOPERATIVE; PUGET SOUND ENERGY,	)	0004422329, 0004507921,
INC.; ENBRIDGE ENERGY COMPANY, INC.;	)	0004153701, 0004526264,
INTERSTATE POWER AND LIGHT	)	0004636537, and 0004604962
COMPANY; WISCONSIN POWER AND)	
LIGHT COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.;)	
ATLAS PIPELINE – MID CONTINENT, LLC)	
DENTON COUNTY ELECTRIC)	
COOPERATIVE, INC., DBA COSERV)	
ELECTRIC; AND SOUTHERN CALIFORNIA)	
REGIONAL RAIL AUTHORITY)	
)	
For Commission Consent to the Assignment of)	
Various Authorizations in the Wireless Radio)	
Services)	

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

OPPOSITION TO REQUEST FOR EXTENSION OF TIME

Warren C. Havens Environmental, LLC, Intelligent Transportation and Monitoring
Wireless LLC, Skybridge Spectrum Foundation, Telesaurus Holdings GB LLC, Verde Systems
LLC, and V2G LLC (collectively, "SkyTel"), by their attorneys, hereby oppose the Request for
Extension of Time submitted by Maritime Communications/Land Mobile, LLC ("Maritime") on
November 4, 2011 (the "Maritime Request").

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During a pre-hearing conference held on October 25, 2011, the Presiding Judge established deadlines for Maritime to provide a limited, targeted set of documents by noon on November 4, 2011. Maritime did not object to this deadline. Despite the fact that this deadline provided Maritime with nine and a half calendar days to produce a limited number of documents, at 11:15 a.m. on November 4, just 45 minutes before the deadline, Maritime submitted the Maritime Request. Both the timing and the substance of the Maritime Request continue to call into question how seriously Maritime is taking its obligations to comply with legitimate discovery requests as well as the direct orders of the Presiding Judge in this matter.

First, Maritime has evidenced a troubling pattern of eleventh-hour extension requests that appear intended to avoid compliance with requests for admissions or discovery. For example, Maritime submitted a request for a further extension of time to respond to the Enforcement Bureau's Requests for Admissions on June 24, 2011, the very day the Presiding Judge had ordered Maritime to respond. Maritime also submitted a request for an extension of time to respond to the Bureau's Initial Discovery Requests on July 15, 2011, just days before its responses were due. Now, Maritime has requested an extension a scant 45 minutes prior to its most recent deadline. This pattern of extension requests raises the question of whether Maritime is delaying the submission of its requests for extension in order essentially to self-grant the extensions themselves.

Second, not all of the reasons Maritime offers in support of its extension request withstand scrutiny. For example, Maritime offers "international travel," as one explanation. It is not at all apparent how Maritime could have found out about this international travel only on the day documents were actually due. Maritime also blames its delay on the need to address "extensive discovery request [sic] submitted by the SkyTel parties in the bankruptcy proceeding." Maritime was not even ordered to comply with SkyTel's discovery requests until

October 31, and need not produce documents in response to those requests until November 15. It is not clear why a November 4 deadline would be unmanageable due to a November 15 deadline. Further, on November 4, the United States Trustee filed a motion to compel Maritime to amend its bankruptcy schedules based on a meeting of creditors that took place on September 23, 2011. Apparently diligent compliance with the obligations imposed by its voluntary bankruptcy proceeding has not been taking up all of Maritime's limited time.

If the point Maritime is trying to make is that complying with its multiple discovery obligations is inconvenient, that is not a basis for an objection. The fact is that the ongoing delay in this hearing proceeding is entirely due to Maritime's unwillingness to comply with its discovery obligations. However, this unilateral choice involves costs and burdens for SkyTel as well, and presumably for the Enforcement Bureau as well as the other parties. Indeed, one of the ongoing costs to SkyTel is that Maritime's site-based licenses, which are subject to automatic termination if they were not constructed or if operations were permanently discontinued – which is one of the issues in this proceeding – are severely encumbering SkyTel's geographic area licenses. Maritime's blocking of SkyTel's geographic area licenses with site-based licenses still reflected in the FCC's records, but that may have terminated long ago, interferes with SkyTel's ability to use its spectrum, its business opportunities, and its ability to offer spectrum to other users, including to public railroads. Further unnecessary delays in conducting this proceeding impose significant and increasing costs for SkyTel.

For the foregoing reasons, SkyTel respectfully urges the Presiding Judge to deny the Maritime Request. SkyTel also urges the Presiding Judge to make plain to Maritime that further eleventh-hour extension requests will not be entertained. The Presiding Judge's most recent order established additional deadlines for Maritime, including a November 14 deadline to provide revised responses to the Bureau's Requests for Admissions and a December 6 deadline

to provide a status report on the bankruptcy proceeding. If Maritime is permitted to request and essentially self-grant further extensions of time without consequence, this hearing proceeding will never be resolved. The time for serial, unlimited extensions has passed, and Maritime should, finally, comply with its obligations. SkyTel urges the Presiding Judge to consider the imposition of sanctions, and to entertain motions for adverse inferences to be drawn from failures on Maritime's part to comply with its discovery obligations, the Commission's rules, or with the Presiding Judge's orders.

Respectfully Submitted,

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Foundation, Telesaurus Holdings GB, LLC,
Verde Systems, LLC, and V2G LLC

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November 7, 2011

CERTIFICATE OF SERVICE

I, Patrick R. McFadden, hereby certify that on this 7th day of November, 2011, a true copy of this Opposition was served via first class, postage paid United States Mail upon the following:

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